IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.9881 OF 2004

Smt. Pushpa Chandrakant Pednekar. ...Petitioner.

Vs.

Shri Sadanand Tukaram Keni & Ors. ...Respondents.

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Mr.S.A.Sawant with Mr.H.V.Kode for the Petitioner.

Mr.G.H.Keluskar for the Respondents.

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CORAM : DR.D.Y.CHANDRACHUD, J.

April 13, 2005.

P.C. :

The Trial Court in its order dated 23rd June 2004 had noted that the possession of the Petitioner herein, who is the original Plaintiff, in respect of the house and the cattle shed bearing Nos.2200 and 2200(A) is an admitted position since the First and Second Defendants have filed a counter claim for possession. However, the possession of the Plaintiff in respect of the open land was stated to be in dispute. The First

Defendant was stated to be in the process of constructing a building on the land which formed the subject matter of the suit. In these circumstances, an order was passed directing the parties to maintain status quo. It appears that based on the complaint of the Petitioner, Malvan Nagar Parishad, in a communication dated 1st November 2004 stated that permission had not been granted to the First Defendant for carrying out any construction. When a notice came to be issued on this Petition on 17th December 2004, parties were directed to maintain the status quo in so far as the possession of the Petitioner is concerned. The Court is informed that in the appeal that has been filed before the First Appellate Court, an application for condonation of delay is filed which is still to be taken up. In that view of the matter, it would be appropriate if the ad-interim order dated 17th December 2004 is continued until the application for condonation of delay is decided. There shall be an order in these terms. The impugned order of the First Appellate Court is set aside in view of the aforesaid facts and circumstances of the case.

In the event that the delay is condoned by the First Appellate Court, that Court would be at

liberty to fix a time schedule for the early disposal of the appeal against the interlocutory order. The First Appellate Court shall endeavour to dispose of the application for condonation of delay within a period of four weeks.

No further directions are necessary. The petition is accordingly disposed of.

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